

REMARKS

Claim 1 has been amended to state that the cross-section of the band is made planar, not linear. Support for this can be found in the drawings. Accordingly, no new matter is allowed. Claim 1 has also been amended to state that the method involves providing a device wherein the band portion is separate from the inflatable portion and that the method involves changing the cross-sectional shape of said inflatable portion while encircling said band around body tissue. Support for this change can be found in the specification in paragraph 19, and in the drawings. Accordingly, no new matter is involved. Claims 6-9 have been cancelled herein.

In the previous office action, claim 1 was rejected under 35 U.S.C. 112 for using the term "linear". As noted above, this term has been replaced with "planar". Therefore, Applicant's respectfully ask that the Examiner withdraw this rejection to the claims.

In the previous office action the Examiner rejected the pending claims under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Benchetrit (US 6,916,326). Benchetrit discloses a device wherein the band portion and the inflatable portion are integral (see Figure 2). In addition, the reference discloses a device having a compression volume with a constant cross-section. Claim 1 has been amended to better make this distinction.

Using a method which provides for a device having separate band and inflatable portions, allows the cross sectional shape of the inflatable portion to change without changing the cross-sectional shape of the band portion. This allows the band to better maintain its planar configuration during the life of the implant.

Therefore, Applicant submits that claim 1 is fully allowable over the prior art cited by the Examiner. Consequently, it is respectfully requested that the Examiner withdraw the 35 U.S.C. 102 & 103 rejections to claim 1. In addition, because all other claims depend from claim 1, likewise they are also allowable over the prior art and

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applicant requests that the prior art rejections to these claims also be withdrawn. Applicant respectfully requests that the Examiner re-examine and favorably reconsider Applicant's claims in the form of a Notice of Allowance.

Respectfully submitted,

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